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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **OHMORI, Kenji et al.**

Group Art Unit: 1773

Serial No.: 09/963,674

Examiner: **D. S. Nakarani**

Filed: **September 27, 2001**

P.T.O. Confirmation No.: 8984

For. **Highly Weather-Resistant Magnet Powder and Magnet Produced by Using the Same**

PETITION UNDER 37 C.F.R. §1.182

Commissioner for Patents

P.O. Box 1450

Washington, D. C. 22313-1450

March 21, 2005

Sir:

Applicant hereby petitions under 37 CFR 1.182 regarding the Terminal Disclaimer filed on December 16, 2004. This is a situation not specifically provided for in 37 CFR 1.181. Applicant's petition, discussed in detail below, is that the Terminal Disclaimer filed on December 16, 2004, which contains incorrect information, be considered improper and not be entered in the application.

The fee required by 37 C.F.R. §1.17(i) is paid by the attached check for \$130.00.

Statement of Facts:

1) On September 17, 2004, an Office action was issued in this application. Among the rejections was an obviousness-type double patenting rejection of claims 1-10, 13 and 14 over U.S. Patent No. 6,638,367. This was the only obviousness-type double patenting rejection in the Office action.

2) An Amendment was filed on December 16, 2004. On page 6 of the Amendment, Applicant indicated that the obviousness-type double patenting rejection was being obviated by the filing of a Terminal Disclaimer over U.S. Patent No. 6,638,367.

3) A Terminal Disclaimer accompanied the Amendment filed on December 16, 2004. However, this Terminal Disclaimer incorrectly listed "prior Patent No. 4,668,283," rather than 6,638,367, as the patent over which the term of the present application was being disclaimed. U.S. Patent No. 4,668,283 had been cited in a rejection under 35 U.S.C. 103(a) in the Office action,



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and U.S. Patent No. 4,668,283 and the present application are **not** commonly owned.

4) On March 15, 2005, Examiner Nakarani telephoned to note that he had discovered the mistake in the Terminal Disclaimer filed on December 16, 2004. Examiner Nakarani indicated that the Terminal Disclaimer filed on December 16, 2004, had been entered in the application. He requested that a new Terminal Disclaimer be filed.

5) A new Terminal Disclaimer, correcting the error, was filed on March 16, 2005.

Points to be Reviewed

Applicant submits the following:

1) The listing of U.S. Patent No. 4,668,283 on the Terminal Disclaimer filed on December 16, 2004, was clearly a **clerical error**. There was no obviousness-type double patenting rejection over U.S. Patent No. 4,668,283, and the text of the Amendment of December 16, 2004, clearly indicated that the disclaimer was over U.S. 6,638,367.

2) The Terminal Disclaimer filed on December 16, 2004, cannot be considered proper, since U.S. Patent No. 4,668,283 and the present application are **not commonly owned**.

Action Requested

Applicant hereby requests:

1) That the Terminal Disclaimer filed on December 16, 2004, be considered to be **improper** and that it be considered as **not entered** in the present application.

2) That the Patent and Trademark Office confirm that Applicant has **not** disclaimed the terminal part of the present application over the term of U.S. Patent No. 4,668,283.

3) That the Patent and Trademark Office ensure that any patent issuing from the present application not be marked to indicate disclaiming of the patent term over U.S. 4,668,283.

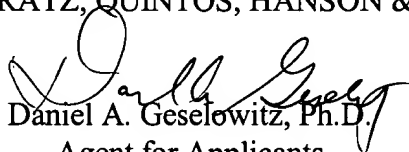
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In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP


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PATENT TRADEMARK OFFICE

Attached: Petition fee of \$130.00

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